

1 LYNN V. RIVERA, ESQ.
NEVADA BAR NO. 6797
2 **BURNHAM BROWN**
A Professional Law Corporation
3 200 S. Virginia Street, 8th Floor
Reno, Nevada 89501
4 ---
Telephone: (775) 398-3065
5 Facsimile: (877) 648-5288
Email: lriviera@burnhambrown.com

6 Attorneys for Defendant
7 HOME DEPOT U.S.A., INC.

8
9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA

11 PAUL PARTON, individually,
12 Plaintiff,

13 v.

14 HOME DEPOT U.S.A., INC., a foreign
corporation; DOES 1 through 10; and ROE
15 ENTITIES 11 through 20, inclusive jointly
and severally,
16 Defendants.
17

Case No. 2:20-cv-01404 JCM-EJY

**STIPULATION AND ~~PROPOSED~~
ORDER FOR INDEPENDENT
MEDICAL EXAMINATION OF
PLAINTIFF PAUL PARTON**

18 Comes now PLAINTIFF PAUL PARTON and Defendant HOME DEPOT U.S.A., INC.
19 by and through their counsel and stipulates, pursuant to Federal Rules of Civil Procedure 35, that
20 Plaintiff PAUL PARTON appear on **February 4, 2021 at 3:00 p.m.** at 861 Coronado Center
21 Drive, Suite 200, Henderson, NV 89052 for an independent medical examination to be
22 conducted by James S. Forage, M.D., Telephone number 702-896-0940. Dr. Forage is board
23 certified in Neurological Surgery and his curriculum vitae is attached as **Exhibit A.**

- 24 1. This will be the only orthopedic IME allowed in this matter.
25 2. The examiner will not require Plaintiff to sign any paperwork. However, should
26 the examiner require Plaintiff to complete paperwork, then same should be provided to
27 Plaintiff's counsel at least five days in advance of the examination.
28

1 3. The examiner will retain all handwritten notes, e-mails (sent and received), and
2 all documents generated or received, including draft reports, related to the examination.

3 4. No later than thirty days following the examination, the examiners will produce a
4 copy of their entire file related to their respective exam, including any test materials/raw data.

5 5. The examiners will forward a copy of the examination report to Plaintiff's
6 counsel at the same time that the report is sent to Defendant's counsel, without delay, pursuant
7 to FRCP 35.

8 6. The examiners will accurately report the findings and test results.

9 7. To ensure accuracy of the report, Plaintiff may audio record the examination.

10 8. The IME examiner can ask about the plaintiff's general medical history, what
11 happened in the subject incident (no liability type questions), what body parts he injured in the
12 subject incident, whether he had prior injury to those specific body parts and treatment received
13 for injuries sustained.

14 9. Plaintiff will have a third party nurse examiner present. She will not ask
15 questions and will only observe the examination.

16 10. Neither defense counsel nor any its representatives, will attend the examination.

17 11. The examination will not last longer than two hours unless extraordinary
18 circumstances are presented to Plaintiff's counsel in writing at least five days prior to the
19 examination setting forth the justification for additional time.

20 12. Plaintiff will not be required to wait in the IME waiting room for longer than
21 thirty minutes before commencement of each examination.

22 13. Liability questions may not be asked by the examiner or any agent or
23 representative of the examiner. Further, the IME examiners will not attempt to use this exam to
24 take a statement of Plaintiff.

25 14. No x-rays or radiographs may be obtained during the examinations, including,
26 but not limited to, EMG, EEG, MRI, CT scans, etc. If any such studies are necessary for the
27
28

1 IME, please detail in writing why such studies are necessary and the protocol for conducting
2 such radiographic studies.

3 15. Plaintiff will not complete any psychological and/or psychometric testing in
4 neither written nor oral form.

5 16. Defense counsel shall notify the IME examiner of these conditions and have
6 him/her agree to each prior to commencement of the exam.

7 17. Defense counsel agrees that should the examiners violate any of the above-
8 mentioned conditions, Plaintiff's counsel will be able to comment on the same at trial as well as
9 the fact that these conditions were explained to the medical experts prior to the IME.

10 18. Defendant shall bear the costs of such examination. Dr. Forage charges a
11 \$1,500 fee for no show or cancellation unless 7 days' notice of such cancellation is provided in
12 advance of said examination. Any such late cancellation costs shall be paid by Plaintiff.

13 DATED: January 29, 2021

DAVID BOEHRER LAW FIRM

14 By /s/ Travis J. Rich

David D. Bohrer, Esq.

Travis J. Rich, Esq.

15 DAVID BOEHRER LAW FIRM

16 375 N. Stephanie Street, Suite 711

17 Henderson, NV 89014

Attorneys for Plaintiff

18 PAUL PARTON

19 DATED: January 29, 2021

BURNHAM BROWN

20 By /s/ Lynn V. Rivera

21 LYNN V. RIVERA, ESQ.

NEVADA BAR NO. 6797

22 200 S. Virginia Street, 8th

23 Floor Reno, Nevada 89501

~~**PROPOSED**~~ **ORDER**

24 IT IS SO ORDERED.

25 DATED: February 1, 20201

26 
UNITED STATES MAGISTRATE JUDGE

Submitted by:
BURNHAM BROWN
/s/ Lynn V. Rivera
Lynn V. Rivera
Nevada State Bar No. 6797
200 S. Virginia Street, 8th Floor
Reno, Nevada 89501
Attorneys for Defendant
HOME DEPOT U.S.A., INC.

AFFIRMATION

Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding pleading filed in District Court Case No. 2:20-cv-01404 JCM-EJY does not contain the social security number of any person.

DATED: January 29, 2021

BURNHAM BROWN

By /s/ Lynn V. Rivera
LYNN V. RIVERA, ESQ.
NEVADA BAR NO. 6797
200 S. Virginia Street, 8th
Floor Reno, Nevada 89501
Attorneys for Defendant
HOME DEPOT U.S.A., INC. (Erroneously
sued herein as THE HOME DEPOT, INC., a
foreign profit corporation)